

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON EDUCATION

Call to Order: By **CHAIRMAN KATHLEEN GALVIN-HALCRO**, on February 9, 2005 at 3:28 P.M., in Room 137 Capitol.

ROLL CALL

Members Present:

Rep. Kathleen Galvin-Halcro, Chairman (D)
Rep. Joan Andersen, Vice Chairman (R)
Rep. Gary Branae, Vice Chairman (D)
Rep. Edward B. Butcher (R)
Rep. Tim Dowell (D)
Rep. Wanda Grinde (D)
Rep. Roger Koopman (R)
Rep. Bob Lake (R)
Rep. Joe McKenney (R)
Rep. Holly Raser (D)
Rep. Scott Sales (R)
Rep. Jon Sonju (R)
Rep. Dan Villa (D)
Rep. John Ward (R)
Rep. Jeanne Windham (D)

Members Excused: None.

Members Absent: Rep. Margaret H. Campbell (D)

Staff Present: Chris Lohse, Legislative Branch
Eddy McClure, Legislative Branch
Nina Roatch-Barfuss, Committee Secretary

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: HB 525, 1/9/2005
Executive Action: HB 229; HB 456

EXECUTIVE ACTION ON HB 229

Eddy McClure distributed an amendment to **HB 229** and explained it.

EXHIBIT (edh32a01)

Motion: REP. BRANAE moved that HB 229 DO PASS.

Motion/Vote: REP. BRANAE moved that HB 229 BE AMENDED. Motion carried 13-3 by voice vote with REP. BUTCHER, REP. SALES, and REP. SONJU voting no. REPS. BUTCHER and CAMPBELL voted by proxy.

Motion: REP. BRANAE moved that HB 229 DO PASS AS AMENDED.

Discussion:

REP. ANDERSEN informed the committee that the SPONSOR, REP. HENDRICK, had asked the committee to table his bill. He felt the bill would not accomplish what he had intended it to do. She was going to oppose the bill.

Vote: Motion on HB 229 AS AMENDED failed 8-8 by roll call vote with REPS. BRANAE, CAMPBELL, DOWELL, GRINDE, RASER, VILLA, WINDHAM and GALVIN-HALCRO voting aye. REPS. BUTCHER and CAMPBELL voted by proxy.

HEARING ON HB 525

Sponsor: REPRESENTATIVE CAROL JUNEAU, HD 16, Browning

Opening Statement by Sponsor:

REP. CAROL JUNEAU opened the hearing on **HB 525** which was a bill to revise the composition of the two existing districts for appointing members to the Board of Public Education, Board of Regents, Coal Board and Hard Rock Mining Board. Presently the Board of Regents has an opening in District 1. Only people in District 1 can apply for that position. There is only one Indian reservation within District 1, which would be the Flathead Reservation. Therefore, an Indian from any of the other six reservations cannot apply. **HB 525** would allow all seven of the Indian reservations in Montana to be included in District 1 and District 2. The boundaries of the districts would not change. She felt it was important to have equable access to boards and commissions for Montana's American Indian people. They are the state's largest minority group and there is a statute in Montana

law that encourages best efforts be put forth to ensure gender and racial balance on all boards and commissions that are appointed by state entities. The current district boundaries were established during the last legislative session. With the current boundaries, the equitable distribution of gender and racial balance cannot happen. Therefore, if the bill is passed, when there is an opening in District 1, people who live in that district and any Indian living on any one of the seven reservations can apply for the position. When there is an opening in District 2, people who live in that district can apply and any Indian who is part of the population on any of the seven reservations can apply. She reported that she was not saying an Indian would be appointed to any of the boards but at least it would create the potential for a diverse pool of applicants that the governor could consider when he makes appointments.

EXHIBIT (edh32a02)

Proponents' Testimony:

Bud Williams, Deputy Superintendent at the Office of Public Instruction (OPI), rose in support of the bill. He reported that his office would appreciate the opportunity to have more Indians on the Board of Public Education and the Board of Regents. These boards have had Indian members in the past and their contributions have been greatly appreciated. He felt it would be extremely helpful to have an American Indian on the Board of Regents. He realized the bill would not guarantee that membership, but it would improve the opportunity for it to happen.

Sheila Stearns, Commissioner of Higher Education, stood in favor of the bill. It seemed to her office that the changing of the districts created an imbalance with six reservations in one district and only one in the other. She believed the bill would give the governor a greater opportunity to create balance on the Board of Regents when appointments are made.

Steve Meloy, Board of Public Education expressed support for the bill. As had been testified, the Board of Education tries to guarantee that there is an American Indian representative on the board. An American Indian has filled a position for the past fourteen years. The bill will allow a greater number of American Indians to apply for any existing opening on a particular board. He believed this bill was the simplest answer to the problem, though other ideas had been explored.

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

REP. WINDHAM informed **REP. JUNEAU** that she lives within the exterior boundaries of the Flathead Indian Reservation, so she wondered if she would be included in being considered in both districts when an opening came up on one of the boards. **REP. JUNEAU** told her that the wording and intent of the bill was for the residents of the seven reservations, therefore she believed **REP. WINDHAM** would be eligible in either district.

REP. LAKE required information from Commissioner Stearns. He wondered if the population in the two districts was balanced. **Commissioner Stearns** replied that she was not present when the last session did the redistricting but she believed that the population was balanced.

REP. LAKE redirected his question to Steve Meloy. **Mr. Meloy** told him that at one time the state was divided in two congressional districts. At that time he believed it was population balanced. He was not sure about the present division. **REP. JUNEAU** had figures she received from Legislative Services. They showed the population in District 1 as 455,199 and the population in District 2 as 446,996.

REP. WARD sought information from Steve Meloy. He asked how many people served on Mr. Meloy's board. **Mr. Meloy** replied, "Seven." **REP. WARD** desired to know the number of members on the Board of Regents, the Coal Board and Hard Rock Mining Board. **Mr. Meloy** informed him that there are seven members on the Board of Regents. He did not know about the other boards.

CHAIRPERSON GALVIN-HALCRO asked **REP. JUNEAU** to get that information to the committee before it did executive action on her bill. The **SPONSOR** agreed to do that.

Closing by Sponsor:

REP. JUNEAU thanked the committee for the hearing and told the committee she would get the requested information to them.
{Tape: 1; Side: A; Approx. Time Counter: 0 - 17.1}

EXECUTIVE ACTION ON HB 456

Motion: REP. KOOPMAN moved that HB 456 DO PASS.

Discussion:

REP. KOOPMAN believed it was important to understand that Montana does not have a charter school provision in the law. The words "charter school" appear in the law, but it is not a provision that provides for parents or organizations to contract to create a charter school. It is just a provision that allows for an alternative form of accreditation. It is still an arrangement between the State Board of Public Education and the local school board. Not a single school had been created under present law. He believed it was important to understand that the wording was not a charter school provision.

During the hearing the opponents expressed the idea that the bill would be deemed unconstitutional. He did not believe that to be true as he had talked to Ms. McClure about the bill. He affirmed that the Supreme Court is unpredictable and one never knows how it will rule. If the legislative body only acted when it was certain the Supreme Court was going to approve the legislation, there would be very few bills passed in the legislature. He proclaimed that he believed the current educational system is unconstitutional. The constitution calls for the providing of equal and full education potential and the preservation of Indian Cultural Heritage. He believed the current education system does not provide that. A charter school law would be an excellent way to address the Indian issue. Under present law an Indian school cannot be created that looks like the Indians want it to look.

He felt the voices that were objecting to the bill were the same voices that had created the current unconstitutional system that is in effect. The strategy for killing charter school bills in every state is exactly the same. The same arguments are heard. He proclaimed that charter schools are working well in most other states. He believed the legislature has to come to grips with the fact that a well-crafted charter school law would serve the children of the state and parents in a wonderful way by providing diversity, and the opportunity for people to come out with an idea in the educational marketplace and draw people to that idea. If the idea can't draw people, there won't be a school. Opponents of charter schools do not want to foster parental choice, or want true innovation in the public schools. He claimed that charter schools work because they are all about innovation, diversity, and choice. He claimed the opponents testified that charter schools had no accountability. Because the schools respond to specific needs and to the creation of an

educational marketplace, they are more accountable than the present system. There was talk about some charter schools failing and **REP. KOOPMAN** believe the ability for schools to fail makes them more accountable.

REP. WARD testified that he found it intriguing that the state has the concept of a charter school when the all-day kindergarten school was discussed. The Helena school tried the idea without state funding. The education community at the hearing seemed very excited about the idea. On the other hand, the education community appeared to be very threatened by the concept of open competition in the education system. The court had deemed the current education system unconstitutional. He declared he did not like the closed-mindedness that he had detected.

REP. BUTCHER alleged that charter schools might channel home school children back into a school situation if they had the opportunity to help shape and form the curriculum and structure within a school. It amazed him that there are so many charter schools nationwide and so much resistance in the State of Montana.

Vote: Motion on HB 456 failed 8-8 by a roll call vote with **REPS. ANDERSEN, BUTCHER, KOOPMAN, LAKE, MCKENNEY, SALES, SONJU and WARD** voting yes. **REP. CAMPBELL** voted by proxy.
{Tape: 1; Side: A; Approx. Time Counter: 17.1 - 30.3}

ADJOURNMENT

Adjournment: 4:10 P.M.

REP. KATHLEEN GALVIN-HALCRO, Chairman

NINA ROATCH-BARFUSS, Secretary

KG/nb

Additional Exhibits:

EXHIBIT ([edh32aad0.PDF](#))